

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA**

WARREN PARKS,	)	
	)	
Plaintiff,	)	
vs.	)	1:13-cv-0337-WTL-DML
	)	
BUTLER COUNTY SHERIFF'S	)	
DEPARTMENT,	)	
	)	
Defendant.	)	

**Entry and Order Dismissing Action**

**I.**

Warren Parks, an Indiana prisoner, sues the Butler County (Ohio) Sheriff's Department because, Parks alleges, one of its transport officers violated Parks' federally secured rights by transporting Parks over the state line on August 17, 2008. This action was filed in an Indiana state court on January 30, 2013, and was subsequently removed to this court, where the defendant's motion to dismiss is now fully at issue.

The claim here is asserted pursuant to 42 U.S.C. § 1983. A suit under ' 1983 must be filed within the time allowed by state law for personal injury actions. *Wilson v. Garcia*, 471 U.S. 261 (1985). In Indiana, that period is two (2) years. *Logan v. Wilkins*, 644 F.3d 577, 581 (7th Cir. 2011); *Behavioral Inst. of Ind., LLC v. Hobart City of Common Council*, 406 F.3d 926, 929 (7th Cir. 2005); *Forman v. Richmond Police Department*, 104 F.3d 950 (7th Cir. 1997) ("[T]he two-year Indiana statute of limitations for personal injuries (IND. CODE ' 34-1-2-2) applies to ' 1983 claims.") (citing *Perez v. Sifel*, 57 F.3d 503, 505 (7th Cir. 1995)). Parks' argument otherwise is not based on current law. See *Coopwood v. Lake County Community Development*, 932 F.2d 677, 679 (7th Cir. 1991).

Parks' claim accrued in August 2008. His filing of this lawsuit in January 2013, occurred nearly 30 months after the statute of limitations expired in August 2010.

Although the expiration of the statute of limitations is an affirmative defense, reliance on such barrier is appropriate in circumstances such as those presented by the complaint because when a plaintiff Apleads facts that show his suit is time barred or otherwise without merit, he has pleaded himself out of court.@ *Trogenza v. Great American Communications Co.*, 12 F.3d 717, 718 (7th Cir. 1993), *cert. denied*, 511 U.S. 1084 (1994). The defendant's motion to dismiss [3] is **granted**. Parks' motion to reject [7] the motion to dismiss and motion in opposition to the motion to dismiss [10] are each **denied**.

The plaintiff's motion to deviate from copies [9] is **granted**. The clerk shall include a copy of each such motion (dkt. 7, 9 and 10) with the plaintiff's copy of this Entry.

## II.

Judgment consistent with this Entry shall now issue.

**IT IS SO ORDERED.**

Date: 03/26/2013

Distribution:

Warren Parks  
DOC #116977  
Correctional Industrial Facility  
Inmate Mail/Parcels  
5124 West Reformatory Road  
Pendleton, IN 46064

Electronically Registered Counsel



Hon. William T. Lawrence, Judge  
United States District Court  
Southern District of Indiana